IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 1912 OF 2007(C)

PETITIONER:

K.V.JOSEPH. S/O. LATE K.M.VARGHESE,
KOIKAPARAMBIL HOUSE, NANMAVACAUD,
PATHANAMTHITTA.

BY ADV. SRI.LIJU.V.STEPHEN
SMT.INDU SUSAN JACOB

RESPONDENTS:

1. DISTRICT COLLECTOR,
PATHANAMTHITTA.

2. ADDITIONAL DISTRICT MAGISTRATE,
COLLECTORATE, PATHANAMTHITTA.

3. EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
PATHANAMTHITTA.

4. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION, KERALA STATE ELECTRICITY
BOARD, VADASSERIKKARA.

5. KRISHNADAS @ SWAMY, OLICKAL HOUSE,
CHITTAR SEETHATHODE VILLAGE, CHITTAR P.O.,
PATHANAMTHITTA.

6. THANKAMMA, W/O. KRISHNADAS,
OLICKAL HOUSE, CHITTAR SEETHATHODE VILLAGE,
CHITTAR P.O., PATHANAMTHITTA.

7. SUKUMARAN @ PODICHERUKKAN,
OLICKAL HOUSE, CHITTAR SEETHATHODE VILLAGE,
CHITTAR P.O., PATHANAMTHITTA.

S.C. FOR K.S.E.B. SRI. JOSE J. MATHEIKEL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/01/2007, THE COURT ON 22.1.2007, DELIVERED THE FOLLOWING:

P.R. RAMAN,

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W.P.(C) NO. 1912 OF 2007

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DATED THIS, THE 22ND DAY OF JANUARY, 2007

J U D G M E N T

This matter relates to drawing of an electric line. Petitioner challenges Ext.P7 order passed by the Additional District Magistrate, Pathanamthitta, in exercise of his powers under section 16(1) of the Indian Telegraph Act, 1885 read with Section 164 of the Indian Electricity Act, 2003.

2. Petitioner is the respondent in the said proceedings. His objection was that the proposed line crosses his property which is a rubber estate and there is no pathway as has been claimed by the beneficiary and the Board. The authorities conducted a site inspection and it was found that the proposed route is the shortest and most feasible and of the 151 meters of the proposed line 70 meters passes through the estate belonging to the petitioner herein and the entire route is a pathway which has been obstructed to the beneficiaries by the petitioner. The site inspection further reveals that though the pathway is obstructed, still it is in existence. Further, merely because an electric line is drawn, that will not confer any manner of right for pathway and it is open to the parties to agitate their civil

rights before appropriate forum. Having found that the proposed route is the shortest and most feasible and causing less inconvenience, and in the absence of any other alternate route shorter than the proposed one the Additional District Magistrate ordered to draw the line as proposed.

3. According to the petitioner, the line can very well be drawn through the property of the beneficiary's brother, shown on the southern side of the sketch. But admittedly, that is only an extent of 15 cents of land and it is a residential premises whereas the proposed route is through a rubber estate causing minimum damages to the parties. No materials are placed to show that there is any alternate feasible route through which line could be drawn causing lesser inconvenience and damages than the proposed one. Hence no interference is called for in the order passed by the Additional District Magistrate.

4. However, I make it clear that the finding, if any, by the Additional District Magistrate, regarding the existence of the pathway will not adversely affect the right, if any of the petitioner in establishing that there is no such pathway in any adjudication proceedings before the civil court.

Subject to the above observation, the writ petition is dismissed.

P.R. RAMAN,
JUDGE.

knc/-